



Montoya, Darlene <dmontoya@nmag.gov>

RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

7 messages

Montoya, Darlene <dmontoya@nmag.gov>
To: jerryh@taoscounty.org

Mon, Dec 19, 2016 at 5:04 PM

Sheriff:

Attached please find correspondence from the Law Enforcement Board Subcommittee regarding the above-referenced matter.

If you have any questions or concerns, please do not hesitate to contact me. Thank you.

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](#)

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84K

Jerry Hogrefe <jerry.hogrefe@taoscounty.org>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Mon, Dec 19, 2016 at 5:34 PM

I have no problem sharing my p&p but I would like to know why the sudden interest in mine?

"You are never wrong to do the right thing". Mark Twain

Sheriff Jerry Hogrefe
[575 737-6480](#)

[Quoted text hidden]

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Montoya, Darlene <dmontoya@nmag.gov>
To: Sonya Carrasco-Trujillo <scarrasco-trujillo@nmag.gov>

Tue, Dec 20, 2016 at 8:48 AM

[Quoted text hidden]

Jerry Hogrefe <jerry.hogrefe@taoscounty.org>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Tue, Dec 20, 2016 at 11:59 AM

Here you go...

(575) 737-6480



"You are never wrong to do the right thing". Mark Twain

This message is intended for the recipient only. If you have received this message and are not the intended recipient please delete it.

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]
Sent: Monday, December 19, 2016 5:05 PM
To: Jerry Hogrefe
Subject: RE: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

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3 attachments

Memo blank.doc
99K

PP 2015-30.docx
7321K

Sheriffs Dept PP Table of Contents.docx
43K

Montoya, Darlene <dmontoya@nmag.gov>
To: Jerry Hogrefe <jerry.hogrefe@taoscounty.org>

Tue, Dec 20, 2016 at 1:11 PM

Thank you so much Sheriff Hogrefe. I hope you and your department have a very Merry Christmas, and a safe and wonderful New Year.

Victoria also asked me to tell you hello and wish you a Merry Christmas.

[Quoted text hidden]

Jerry Hogrefe <jerry.hogrefe@taoscounty.org>
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Tue, Dec 20, 2016 at 1:17 PM

Sure. I guess this struck me wrong as your request is at the one-year anniversary of our officer involved shooting incident.

From: Montoya, Darlene [mailto:dmontoya@nmag.gov]

Sent: Tuesday, December 20, 2016 1:12 PM

To: Jerry Hogrefe

Subject: Re: Request for Policies & Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

[Quoted text hidden]

Montoya, Darlene <dmontoya@nmag.gov>
To: Jerry Hogrefe <jerry.hogrefe@taoscounty.org>

Tue, Dec 20, 2016 at 1:28 PM

I apologize if it struck you wrong because of the one-year anniversary of your officer involved shooting incident. The LEA Board met earlier this month and set up the sub-committee, and our office was asked to send out letters to all law enforcement agencies state-wide and request their P&P regarding this issue. The letter was finalized the day I emailed it to you and the other law enforcement agencies. Prior to coming to the AGs, I worked at the Legal Division for NMSP and I know how hard it was on our officers, the Investigations Division and the Department, when these shootings occurred.

[Quoted text hidden]



TAOS COUNTY SHERIFF'S OFFICE MEMORANDUM

Date: July 17, 2015

From: Sheriff Jerry L. Hogrefe

Effective immediately the document referenced as “Taos County Sheriff’s Office Policy and Procedure Manual” including sections 1 thru 41 effectively implemented as the official Policy and Procedures of the Sheriff’s Office and supersedes any and all other policy manuals.

Although the Sheriff has authority to enact policy, procedure, and guidelines governing the operations of the Sheriff’s Office this Policy Manual will be taken before the regular commission meeting on July 21st, 2015 for consideration and resolution (Resolution 2015-30). Training and orientation will be forthcoming for all sworn personnel.

Therefore, by my signature below the Taos County Sheriff’s Office Policy and Procedure Manual is adopted and implemented.

Sheriff Jerry L. Hogrefe

Date

equipment has been deactivated. An investigation will be conducted when possible to identify and charge the suspect and a report will be completed regardless of whether an apprehension or identification is made.

Apprehension

When possible, felony stop procedures should be used to take the driver into custody. Guidelines outlined in the Use of Force Policy will be followed. If it is reasonable to believe passengers are a threat, felony stop procedures should be used to remove them from the vehicle when possible. Passengers may be secured and detained for a reasonable period of time to determine if they are involved in a crime. Any force or a show of force demonstrated or used by Deputies will be document in the report and in a separate TCSO use of force reporting form.

Documentation of the Pursuit

All pursuits shall be recorded by in-car camera, lapel camera, or both. Pursuant to the TCSO recording policy, Deputies will record video and audio during the pursuit and any follow up interviews or efforts to apprehend the subject.

Following the termination of all pursuits, the Deputy responsible for initiating the pursuit will document their observations and actions in a O/I report along with all other appropriate paperwork. Following the termination of all pursuits, the field supervisor will collect copies of all documentation generated as a result of the pursuit. Such documentation may include, but is not limited to; O/I report, Use of Force Forms, the Computer Aided Dispatch Incident printout, injury report, supplemental offense reports, video and audio recordings, crash reports, charging documents and booking sheets. The field supervisor will review the documentation or completeness and then forward it through the chain of command for administrative review. The Sheriff or his designee will determine if the incident warrants further review in compliance with the Incident Review Board policy.

Administrative Analysis:

An administrative analysis may be done at the direction of the Sheriff on a yearly or an as needed basis. The purpose of the analysis is to reveal any possible patterns or trends that indicate training needs, policy and procedure modifications, roadway changes, or other information relevant to the safety and wellbeing of the public or TCSO personnel.

Subject: Use of Force

Policy No: 010

Approved by: Sheriff Jerry L. Hogrefe Effective Date: July 21, 2015

PURPOSE:

The use of force by a deputy is an extremely sensitive issue and requires careful study and understanding, this is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the use of reasonable force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated. While clear boundaries of reasonableness can be defined for certain situations, others must be interpreted for the particular set of circumstances involved. The purpose of this section is to provide each deputy with policy guidance and direction with respect to the use of force in carrying out his duties.

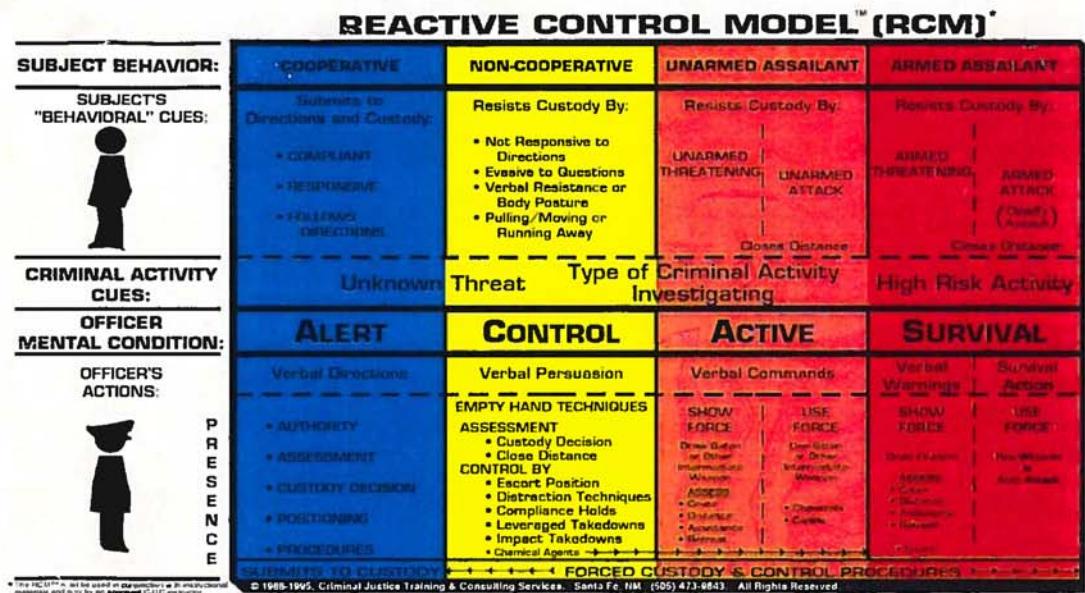
DEFINITIONS

- A. Deadly Force - Force that is likely to cause, or in the manner of its use or its intended use is capable of causing death or serious bodily injury.
- B. Reasonable Belief - A belief that would be held by a reasonable and prudent law enforcement officer in the same circumstances as the acting person.
- C. Reasonable Force - Use of the reasonable amount of force needed to achieve control over an incident or person.
- D. Serious Bodily Injury - Injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of a bodily member or organ.

POLICY

- A. Reasonable force may be used by an officer in the performance of duties, when:
 1. Necessary to preserve the peace, to prevent the commission of an offense or to prevent suicide, self-inflicted injury, or injury to another.
 2. Making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody.
 3. In self-defense or defense of another against unlawful violence to a person or property.
 4. Preventing or interrupting an intrusion on or interference with the lawful possession of property.
- B. An officer may use reasonable force to overcome resistance to the lawful performance of duties, even though there is no immediate or apparent danger calling for self-defense. However, the officer must be acting within the scope of official authority. Every reasonable opportunity must be given to the person being arrested to comply. Force should be used only after all other means have failed to produce compliance.
- C. Before the application of reasonable force, officers should identify themselves as police officers and state their purpose to the offender and others present. This identification is not necessary if the officer reasonably believes his purpose and identity are already known or conditions exist which render it unfeasible to identify.
- D. There is no specific rule fitting all cases as to how much force and means may be used, each case must be decided in the light of its own facts and circumstances. Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used except as stated in the Deadly Force section.

- E. Officers will use only the force necessary to accomplish lawful objectives. Officers must exhaust every reasonable means of employing the least amount of force appropriate to the situation.
- F. The Reactive Control Model (RCM) is an accepted throughout New Mexico Courts. Use of Force/Response to Resistance is advocated and taught by NMDPS Training Academy. Both are applicable and expected to be used by deputies of the TCSO to determine the appropriate course of action when interacting with a person(s) in a situation, which may require the use of force. Refer to NMDPS Training curriculum for Response to Resistance.



REPORTING PROCEDURES

- A. A written use of force report and incident report will be submitted whenever a Deputy:
1. discharges a firearm, for other than training or recreational purposes;
 2. takes an action that results in, or is alleged to have resulted in, injury or death of another person;
 3. applies force through the use of lethal or less-lethal weapons; or
 4. uses any equipment applying force (spike system, riot gear, fire equipment etc.)

In any incident where a use of force is used, officer(s) shall document the incident in a report. The report will include a detailed description of the

events leading to the necessity for the use of force; the amount and type of force used; the nature and extent of injuries, if any, and treatment rendered; identity of individuals involved and all other pertinent information.

B. Non-injury Use of Force:

The use of Defensive Tactics frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This documentation will normally be sufficiently covered in any report prepared as a result of the event. This account will include all circumstances that led to the use of a tactic and its actual use. The approving supervisor will ensure that the events are presented fully, in a clear and accurate manner.

C. Personal Injury Incidents:

Photographs of the injuries will be taken, and included with any reports. This applies to both officers and/or suspects.

D. Medical Aid to Injured Parties:

When a person is injured because of an officer's use of force, the officer shall notify his immediate supervisor and seek medical treatment for the injured person.

E. Routing of Paperwork:

Anytime an incident involves the use of force, the reports will be reviewed by the shift supervisor and within 24 hours be routed through the chain of command. When a supervisor believes there may have been an inappropriate use of force, he/she will provide his supervisor with a written explanation as to why the use of force was inappropriate.

LESS-LETHAL FORCE

Defensive Tactics

In order to provide members of this Office with current information, the TCSO, Defensive Tactics Instructor or adjunct instructor will schedule periodic training sessions, which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use defensive tactics that they have been trained in and are qualified to use.

Police ASP Baton/Baton

1. The Office issued ASP baton may be used if a suspect has escalated to using threatening statements and/or gestures and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
2. The ASP baton is not designed to be used as a club or bludgeon. Strikes should target areas of the body, which may result in compliance by the suspect or allow the officer to gain control.
2. Strikes to parts of the body (head, neck, spine, groin, or clavicle) capable of inflicting death or serious bodily injury shall be avoided

unless justified by the guidelines of the Deadly Force section of this chapter

Nothing in this section is intended to contradict the NMLEA/DPS approved standardized training. Deputies shall utilize their training manual for details of maintenance and other information.

OC Spray

OC Spray (pepper spray) plays a distinct and viable role in the continuum of force options and gives the individual officer an alternative to hard empty hand techniques and the use of an impact weapon, ASP.

1. Use of OC Spray or Pepper Spray

- a. The OC spray may be used on a suspect who is non-cooperative and is resisting the efforts to control him by the following actions:
 1. suspect not responsive to directions
 2. verbal resistance or body posture
 3. pulling/moving running away
 4. aggressive movements and an escalation of resistive force.
- b. The OC spray may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The use of OC spray is target specific and should result in the officer's ability to gain control of the suspect.
- d. The target area will consist of the face, specifically the eyes.

2. Decontamination

- a. Decontamination begins after the suspect has been restrained with handcuffs or by other means and the suspect's resistance has ceased.
- b. Decontamination should begin in a reasonable time frame and officer safety should be taken into consideration.
- c. Expose suspect to fresh air and flush affected area with water.

- d. Call medical personnel (EMS) to perform a cursory check of the suspect, to remove any contact lenses if necessary and to continue flushing the suspect with water.
 - e. Once the suspect has been transported to the detention facility, the on duty detention facility personnel shall be notified that the suspect has been sprayed with OC.
 - f. Under no circumstances will any creams, salves, or oils be applied to the affected area.
3. Reporting
- a. As with any use of force or application of force, a written report will be submitted detailing the use of the OC/Pepper spray, decontamination procedures and the events leading to the use of the OC/Pepper spray.
 - b. Anytime the OC/Pepper spray is used, the approving supervisor will be responsible for ensuring that a copy of the report is forwarded up the chain of command.

Nothing in this section is intended to contradict the NMLEA/DPS approved standardized training. Deputies shall utilize their training manual for details of maintenance and other information.

12 Gauge Bean-Bag (Authorized by the Sheriff in a case by case basis)

- 1. Bean-bags are considered to be extended range impact weapons that allow officers to deliver a similar amount of force comparable to batons.
- 2. The bean-bag may be used when other less - lethal force options have been ineffective or when it reasonable appears that such options will be ineffective in subduing the subject. Examples of situations in which the bean-bag may be used include, but are not limited to, the following:
 - a. Dealing with the mentally ill subject who is perceived to be violent.
 - b. Armed subjects.
 - c. Warrant service where the subject is perceived to be violent.
 - d. violent persons under the influence of drugs and/or alcohol.
 - e. Persons expressing the intent and having the means to commit suicide.

- f. When deemed a reasonable alternative to lesser force options that will likely to be ineffective or greater force options that may be inappropriate given objective circumstances.
3. Where possible, the bean-bag operator should consult with a supervisor prior to the use.
4. The bean-bag should not be pointed at any individual unless the officer involved reasonable believes it will be necessary to use the device.
5. The bean-bag shall not be used:
 - a. When the operator cannot, for safety or other reasons, approach the subject within effective range of the device;
 - b. When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
6. In less-lethal force situations, when possible, officers should avoid using the bean-bag on:
 - a. Persons in wheelchairs or in control of a vehicle;
 - b. Pregnant women;
 - c. People with known heart problems;
 - d. People with apparent debilitating illness or the elderly;
 - e. Children or those under 80 pounds;
 - f. Individuals with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy.
 - g. Prior to deployment the deputy shall announce “bean-bag, bean-bag, bean-bag” to alert other responders.
7. Only officers who have successfully completed the DPS approved course of instruction on the bean-bag are authorized to use it in tactical situations.
8. Officers of this agency shall receive refresher training in use of the bean-bag on an annual basis during firearms instruction.

UNDER NO CIRCUMSTANCES DOES A BEAN-BAG ROUND GO INTO ANYTHING OTHER THAN A 12 GAUGE ORANGE SHOTGUN.

Nothing in this section is intended to contradict the NMLEA/DPS approved standardized training. Deputies shall utilize their training manual for details of maintenance and other information.

Tasers/Electronic Control Devices (ECD)

Only officers that have been trained and whose certification is current will be allowed to deploy the M-26, X-26, X-2, or X3 Air Taser.

- A. Officer's shall assess each scene on a case-by-case basis to determine if the use of ECD could prevent the escalation of an event, and also prevent injuries to any parties involved.
- B. Officer's who deploy the ECD at a scene shall advise dispatch and other officers responding over the radio that the Taser is being deployed whenever practical. Once on-scene the officer deploying the ECD shall continue to advise officers of the deployment, by advising "Taser, Taser, Taser." In the event that a command to fire the Taser needs to be given, the command will be "Deploy Taser", to prevent confusion as to which tool is to be used.
- C. Deploying officers should use verbal warnings to the suspect if circumstances allow for it. The officer should also try to give an *ARC AND LASER DISPLAY* if possible to prevent escalation and the actual firing of the Taser cartridge.
- D. After firing the Taser, a *FULL DEPLOYMENT CYCLE* should be administered unless circumstances dictate otherwise. After the cycle, and during the handcuffing of the suspect, the deploying officer will stand-by to prevent the suspect from becoming aggressive toward others, administering subsequent cycles if required for compliance.
- E. In the event of a *PROBE DEPLOYMENT*, the officer shall as soon as possible notify the on-duty supervisor of the situation. The on-duty supervisor will proceed to the deployment location. The deploying officer will insure treatment for any injuries to the suspect. The officer may remove the probes after the supervisor has given approval for a field removal. In the event field removal is denied the suspect will be transported to the hospital for probe removal. After removing probes they will be photographed and treated as a biohazard and discarded accordingly. The used Taser cartridge will also be photographed and then entered into evidence by the deploying officer. The suspect will also be photographed, to include contact area of the probes.
- F. In the event of a *DRIVE-STUN DEPLOYMENT*, the officer shall notify the supervisor of the situation, treat any injuries and transport the suspect for booking. The suspect will be photographed, to include the area of contact on the suspect.
- G. In the event of a *PROBE DEPLOYMENT, DRIVE-STUN DEPLOYMENT OR AN ARC & LASER DISPLAY*, the deploying officer will submit the TASER use form to his immediate supervisor for review. After reviewing the use form, the supervisor will forward the information to the Sheriff for review.

Taser Training Bulletin

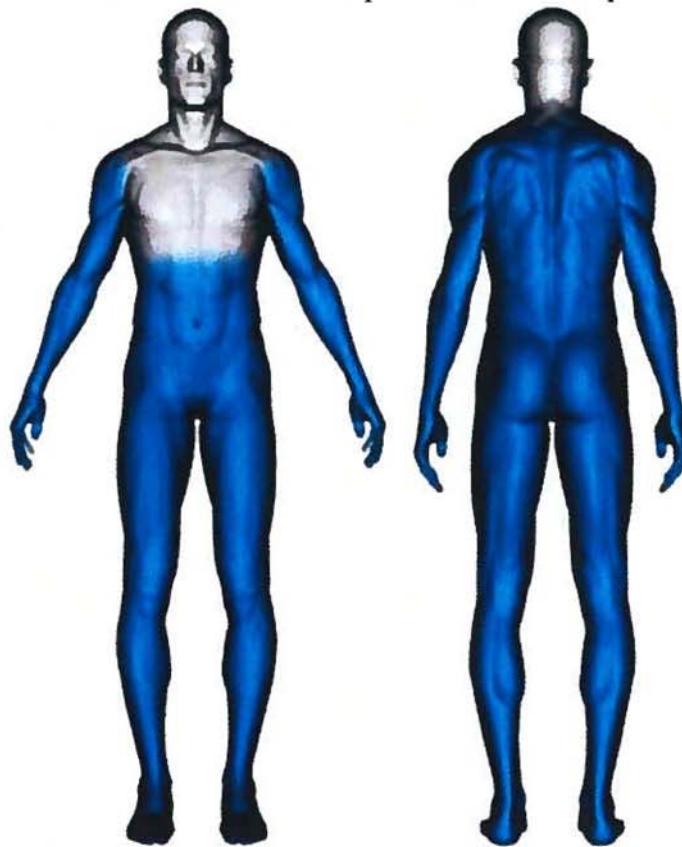
A new TASER Targeting Guide has been issued (2013) that will apply for the new XREP impact munition as well as ECDs such as the X26, M26 and X3.

Note, the recommended point of aim has been lowered from center of mass to lower-center of mass for frontal shots. The blue highlighted area in the below “target man” represents the preferred target area.

There are three reasons:

- a. Simplify targeting for all TASER systems to one easy to remember map, avoiding chest shots when possible and the risk of a head/eye shot in a dynamic situation, as is standard for impact munitions
- b. When possible, avoiding chest shots with ECDs avoids the controversy about whether ECDs do or do not affect the Human heart.
- c. Close-spread ECD discharges to the front of the body are more effective when at least one probe is in the major muscles of the pelvic triangle or thigh region.

1. Back shots remain the preferred area when practical, preferred target areas in blue.



2. An Electronic Control Device as a force option is the same level of force as chemical spray and baton.

3. Electronic Control Device must be worn on the weak-side in either a weak-hand draw or cross-draw position.
4. Electronic Control Device deployment shall not be considered for the passively resistant subject. Active resistance or active aggression shall be required.
5. Flight from an officer alone is not justification for the use of an electronic control device. An electronic control device may be utilized on a fleeing suspect under the following circumstances;

An ECD may be used to affect an arrest of a fleeing suspect when the officer has a warrant or probable cause to make an arrest absent a warrant, with the following considerations:

1. the seriousness of the offense
2. the threat the suspect poses to the officer or others
3. the level of resistance offered by the suspect

An ECD may be used to affect a stop of a suspect when the officer has reasonable suspicion to believe that a felony has been committed. An ECD may also be utilized to affect the stop of a suspect when an officer has reasonable suspicion to believe that a crime of violence or threats of violence has been committed against a person.

An ECD shall not be used, when only reasonable suspicion exists, to affect the stop of a suspect when the crime in question is a misdemeanor non-violent crime.

Nothing in this section is intended to contradict the NMLEA/DPS approved standardized training. Deputies shall utilize their training manual for details of maintenance and other information.

DEADLY FORCE

A. Authorized Use of Deadly Force

1. Deadly force may be used only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.
2. An officer may use deadly force:

When the suspect is intent on immediately endangering human life or immediately inflicting serious bodily injury unless apprehended without delay. The officer must reasonably believe that the suspect is armed or has the means to inflict death or serious bodily injury and the following exist:

- a. Ability (Weapon)
- b. Opportunity (Distance)

- c. Immediate Jeopardy (Officer's life or someone else's life is in immediate jeopardy)
 - d. Fleeing felons must meet the above requirements
3. Prohibited uses of deadly force:
- a. Officers shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.
 - b. An officer shall not rely solely on third party reports as a basis for use of Deadly Force, without firsthand knowledge of an alleged offense.
 - c. An officer shall not use deadly force in situations that would not be in accordance with New Mexico State Statutes.
 - d. In an attempt to apprehend fleeing felons or escapees whom are not placing the officer or another person in immediate danger of death or immediate serious bodily injury.
4. All officers shall be provided with and be familiar with all provisions of the New Mexico State Statutes and this directive governing the legal use of Deadly Force.

B. Warning Shots are prohibited.

ADMINISTRATIVE DUTY

- A. Immediately following an officer's involvement in an incident involving serious injury or death, the officer will be automatically placed on administrative duty or leave pending a review by the Sheriff and/or his designee. Unless the duty status is changed to a suspension or termination status by the Sheriff, the officer shall remain in an administrative duty status until such time as the matter is resolved both legally and administratively. Reinstatement, corrective action, suspension, or termination will follow the course of the investigation.
- B. Assignment to administrative duty is non-disciplinary with no loss of pay or benefits. This duty is designed to:
 1. address the personal and emotional needs of the officer involved in the use of deadly force and,
 2. insure the community that the facts surrounding the case are fully and professionally investigated.
- C. An officer placed on administrative duty will be assigned to office duty in civilian clothes or other assignments at the direction of the Sheriff.

- D. An officer on administrative leave shall insure his/her availability to investigators until the investigation has been concluded.
- F. Officers on administrative duty or leave are authorized to carry an approved firearm, unless otherwise directed by the Sheriff. Deputies shall not work off-duty police related jobs and should not enforce laws and make arrests except in emergency situations with approval of the Sheriff.
- G. A Deputy whose action results in a deadly force incident will be required to counsel with the Office appointed counselor and/or EAP. The counselor must make written notification that the officer is fit for duty before the officer returns to duty.

The TCSO will make available and reserve the right to require counseling for other officers who had involvement in a deadly force incident.

INCIDENTS OF FORCE REVIEW

- A. If a use of force reasonably indicates a possible violation of the TCSO or Taos County policy, state or federal law, or other inappropriate conduct, any immediate supervisor will refer the investigating file directly to the Sheriff for review.
- B. Referrals to the Sheriff will be automatic and take place immediately anytime there is a firearm discharge (except at the firing range or in the event of putting down an animal), accidental or negligent discharge of a weapon.
- C. The Sheriff or his designee will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The Sheriff or his designee will analyze use of force data on a cumulative basis to detect trends and review the data for the purpose of identifying and acting upon their implications for policy and training needs to ensure only appropriate types and amounts of force are utilized by Deputies. For this purpose the Sheriff may utilize a standards review committee comprised on internal and external sources for input.

TRAINING

- A. Annual training will be conducted to instruct officers in the Use-Of-Force policy. This instruction will be documented and will follow NMLEA/DPS accredited training curricula.
- B. Copies of this policy will be issued to each officer, before being authorized to carry a weapon, and will be updated as needed. This issuance and instruction will be documented.